**HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI**
**AND**
**HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY**

**Writ Appeal No. 777 of 2007**

**Between:**

Pinniboina Raghavulu

… Appellant

**And**

The Mandal Revenue Officer (Tahsildar),
Musunuru Mandal, Krishna District.

… Respondent

**:: J U D G M E N T ::**

Counsel for the appellant : Shri P. Satyanarayana

Counsel for the respondent : Government Pleader for Revenue

**September 19, 2007**

**Per G.S. SINGHVI, CJ**

This is an appeal for setting aside order dated 30.07.2007 passed by the learned Single Judge in Writ Petition No.15800 of 2007, whereby he rejected the appellant's challenge to notice in Rc.No.23/07 dated 01.05.2007 issued by Mandal Revenue Officer (Tahsildar), Krishna District (the respondent herein).

A perusal of the record shows that the appellant filed writ petition with the complaint that the notice issued by the respondent proposing to resume the land measuring Ac.3.19 cents comprised in Survey No.305/1 situated at Katrenipadu Village, Musunuru Mandal, Krishna District served upon him 9.7.2007 and even though he filed reply dated 14.7.2007, the respondent is seeking to dispossess him

without considering his objection. He also pleaded that while initiating the proceedings for his eviction, the respondent completely overlooked order dated 30.07.1984 passed by Taluk Magistrate and Tahsildar, Nuzvid in Pinniboina Peddulu and another v. Akkineni Anjaneyulu.

The learned Single Judge did not call upon the respondent to file counter-affidavit and dismissed the writ petition simply by relying on the oral statement made by the learned Assistant Government Pleader that the notice was served on the petitioner on 25.05.2007 and the order of resumption was passed on 07.07.2007 under Section 4 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977.

In response to the notice of this appeal, the respondents have filed counter-affidavit.

We have heard Shri P. Satyanarayana, learned counsel for the appellant, learned Government Pleader for Revenue and scrutinized the record.

In our opinion, the learned Single Judge was not justified in brushing aside the factual averments contained in the affidavit of the appellant and the writ petition ought not to have been dismissed on the basis of oral statement made by the learned Government Pleader. It hardly needs an emphasis that the oral statement made by the counsel appearing for the respondent cannot be equated with an affidavit and made basis for dismissing the writ petition except when such statement is accepted by the opposite counsel.

For the reasons stated above, the appeal is allowed. The order of the learned Single Judge is set aside with the direction that the writ petition be laid before the appropriate Bench for fresh adjudication in accordance with law.

The registry is directed to list the matter before the learned

Single Judge on 08.10.2007. Till 09.10.2007, the interim order passed by this Court on 21.08.2007 shall continue. The petitioner-appellant shall be at liberty to make a request before the learned Single Judge for extension of the interim order.

At this stage, learned Government Pleader for Revenue made a statement that the order under challenge will not be given effect to and the respondent will pass fresh order after considering reply dated 14.07.2007 filed by the petitioner in response to the show cause notice and giving him opportunity of personal hearing.

Shri Satyanarayana, learned counsel for the appellant says that his client cannot have any objection, if the competent authority passes fresh order after considering his reply and giving him opportunity of hearing.

Hence, the writ appeal is disposed of in the following terms:

1) Order dated 07.07.2001 passed by the respondent shall be treated as inoperative and ineffective and shall not be implemented.

2) The respondent shall be free to pass fresh order after considering reply dated 14.07.2007 submitted by the appellant in response to notice dated 23.05.2007 and giving him opportunity of personal hearing.

As a sequel to the above, W.A.M.P.No.1556 of 2007 filed by the appellant is disposed of as infructuous.

**G.S. SINGHVI, CJ**

**C.V. NAGARJUNA REDDY, J**

September 19, 2007
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